

A. INCAPACITY CRITERIA FOR GAU**WAC 388-448-0001 Establishing incapacity for general assistance.**

For the purposes of this chapter, "we" and "us" refer to the department of social and health services. "You" means the applicant or recipient. In order for you to receive general assistance unemployable (GAU) benefits, we must first determine if you are incapacitated.

- (1) We determine you are incapacitated if you are:
 - (a) Eligible for payments based on Social Security Administration (SSA) disability criteria;
 - (b) Eligible for services from the division of developmental disabilities (DDD);
 - (c) Diagnosed as mentally retarded based on a full scale score of seventy or lower on the Wechsler Adult Intelligence Scale (WAIS);
 - (d) At least sixty-five years old;
 - (e) Eligible for services from aging and adult services administration; or
 - (f) Approved by the Progressive Evaluation Process (PEP).
- (2) We consider you to be incapacitated for ninety days following your release from:
 - (a) An inpatient psychiatric treatment facility if:
 - (i) You directly participate in outpatient mental health treatment; and
 - (ii) The release from in-patient treatment was not against medical advice.
 - (b) A medical institution where you received long-term care services from the aging and adult services administration.

CLARIFYING INFORMATION

If it is not clear whether a client meets the incapacity criteria, the Incapacity Social Worker (ISW) can assist in the determination.

WORKER RESPONSIBILITIES

1. Open GAU when a client meets the incapacity criteria.
 - a. Look at the Medically Indigent program for coverage of any unpaid medical bills in the period prior to the effective date of GAU.
 - b. Notify the SSI Facilitator when GAU is opened and include the reason the client meets the incapacity criteria.
 - c. Notify the ISW of the incapacity review date when opening GAU for a client released from inpatient psychiatric treatment or long-term care services. Attach any medical records.
2. Refer GAU clients to the ISW when an incapacity decision is needed. Give the client DSHS 14-050, Statement of Education, Employment, and Health to complete and return to the ISW. Include:
 - a. Application date;
 - b. Any medical records;
 - c. Information about unpaid medical bills;
 - d. Date of SSI application; and
 - e. Information about active medical coverage.

Chemical Dependency

Refer a client who claims incapacity due to chemical dependency to the ISW using DSHS 14-299(X), ADATSA Referral Form (see **CHEMICAL DEPENDENCY**).

WAC 388-448-0010 How we decide if you are incapacitated.

When you apply for general assistance unemployable (GAU) program benefits, you must provide medical evidence to us to show that you are unable to work. If we say that you are "**incapacitated**," it means that you are incapable of gainful employment as a result of a physical or mental impairment that is expected to continue for ninety days or more from the date of application.

- (1) If you are gainfully employed at the time of your application for GAU, we deny incapacity. "**Perform gainful employment**" means you can perform, in a regular and predictable manner, an activity usually done for pay or profit. We do not consider work to be gainful employment when you are:
 - (a) Working under special conditions, like a sheltered workshop we have approved; or
 - (b) Working occasionally or part-time if your medical condition limits the hours you can work compared to unimpaired workers in the same job.
- (2) We decide if you are able to perform gainful employment when:
 - (a) We receive an application for benefits. We may waive this decision if medical documentation requirements are waived under WAC 388-448-0001;
 - (b) You become employed; or
 - (c) We get new information that indicates you may be employable.
- (3) Unless medical documentation requirements are waived under WAC 388-448-0001, we determine if incapacity exists using the progressive evaluation process (PEP). When we receive your medical evidence, we use the PEP to decide if there is a medical impairment that prevents you from being gainfully employed. The PEP is a sequence of seven-steps.
- (4) You are not eligible for GAU benefits if you are incapacitated only because of alcoholism or drug addiction. If you have a physical or mental impairment and you are impaired by alcohol or drug addiction, we decide if you are eligible for

general assistance. If you qualify for both GAU and ADATSA shelter, you may choose either program.

- (5) In determining incapacity, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: sitting, standing, walking, lifting, carrying, handling, seeing, hearing, communicating, and understanding and following instructions.

Effective August 1, 2001

WAC 388-448-0200 Eligibility for general assistance unemployable pending SSI eligibility.

If we approve you for GAX, benefits are authorized through the month SSI payments begin if you:

- (1) Apply for SSI, follow through with your application, and do not withdraw your application;
- (2) Agree to assign the initial or reinstated SSI payment to DSHS as provided under WAC 388-448-0210; and
- (3) Are otherwise eligible according to WAC 388-400-0025.

WAC 388-448-0210 Assignment and recovery of interim assistance.

You can get assistance to meet your basic needs from only one government source at a time. When you are approved for SSI, you may receive a payment going back to the date you applied for SSI. This means you are being paid a back payment for your basic needs. When you have received GAU during that time period, the amount paid to you in the form of GAU must be reimbursed to the state.

- (1) **"Assign"** means that the Social Security Administration (SSA) will pay DSHS directly from your reimbursement amount. The assignment will be up to the amount of interim assistance we provide to you.
- (2) **"Interim assistance"** means the state funds we provide to you to meet basic needs

during:

- (a) The time between your SSI application date and the month recurring SSI payments begin; or
 - (b) The period your SSI payments were suspended or terminated, and later reinstated for that period.
- (3) We pay up to twenty-five percent of the interim assistance reimbursement that we receive from the SSA to the attorney who has successfully represented you in your effort to receive SSI.